

# Appendix E: Invasive Species Laws and Regulations

## Executive Order 13112

### Presidential Documents

#### Executive Order 13112 of February 3, 1999

#### Invasive Species

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, as amended (16 U.S.C. 4701 et seq.), Lacey Act, as amended (18 U.S.C. 42), Federal Plant Pest Act (7 U.S.C. 150aa et seq.), Federal Noxious Weed Act of 1974, as amended (7 U.S.C. 2801 et seq.), Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), and other pertinent statutes, to prevent the introduction of invasive species and provide for their control and to minimize the economic, ecological, and human health impacts that invasive species cause, it is ordered as follows:

#### Section 1. Definitions.

- a. "Alien species" means, with respect to a particular ecosystem, any species, including its seeds, eggs, spores, or other biological material capable of propagating that species, which is not native to that ecosystem.
- b. "Control" means, as appropriate, eradicating, suppressing, reducing, or managing invasive species populations, preventing spread of invasive species from areas where they are present, and taking steps such as restoration of native species and habitats to reduce the effects of invasive species and to prevent further invasions.
- c. "Ecosystem" means the complex of a community of organisms and its environment.
- d. "Federal agency" means an executive department or agency, but does not include independent establishments as defined by 5 U.S.C. 104.
- e. "Introduction" means the intentional or unintentional escape, release, dissemination, or placement of a species into an ecosystem as a result of human activity.
- f. "Invasive species" means an alien species whose introduction does or is likely to cause economic or environmental harm or harm to human health.
- g. "Native species" means, with respect to a particular ecosystem, a species that, other than because of an introduction, historically occurred or currently occurs in that ecosystem.
- h. "Species" means a group of organisms all of which have a high degree of physical and genetic similarity, generally interbreed only among them, and show persistent differences from members of allied groups of organisms.
- i. "Stakeholders" means, but is not limited to, State, tribal, and local government agencies, academic institutions, the scientific community, nongovernmental entities including environmental, agricultural, and conservation organizations, trade groups, commercial interests, and private landowners.
- j. "United States" means the 50 States, the District of Columbia, Puerto Rico, Guam, and all possessions, territories, and the territorial sea of the United States.

## Sec. 2. Federal Agency Duties.

- a. Each Federal agency whose actions may affect the status of invasive species shall, to the extent practicable and permitted by law,
  1. identify such actions;
  2. subject to the availability of appropriations, and within Administration budgetary limits, use relevant programs and authorities to: (i) prevent the introduction of invasive species; (ii) detect and respond rapidly to and control populations of such species in a cost-effective and environmentally sound manner; (iii) monitor invasive species populations accurately and reliably; (iv) provide for restoration of native species and habitat conditions in ecosystems that have been invaded; (v) conduct research on invasive species and develop technologies to prevent introduction and provide for environmentally sound control of invasive species; and (vi) promote public education on invasive species and the means to address them; and
  3. not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species in the United States or elsewhere unless, pursuant to guidelines that it has prescribed, the agency has determined and made public its determination that the benefits of such actions clearly outweigh the potential harm caused by invasive species; and that all feasible and prudent measures to minimize risk of harm will be taken in conjunction with the actions.
- b. Federal agencies shall pursue the duties set forth in this section in consultation with the Invasive Species Council, consistent with the Invasive Species Management Plan and in cooperation with stakeholders, as appropriate, and, as approved by the Department of State, when Federal agencies are working with international organizations and foreign nations.

## Sec. 3. Invasive Species Council.

- a. An Invasive Species Council (Council) is hereby established whose members shall include the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Transportation, and the Administrator of the Environmental Protection Agency. The Council shall be Co-Chaired by the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce. The Council may invite additional Federal agency representatives to be members, including representatives from sub cabinet bureaus or offices with significant responsibilities concerning invasive species, and may prescribe special procedures for their participation. The Secretary of the Interior shall, with concurrence of the Co-Chairs, appoint an Executive Director of the Council and shall provide the staff and administrative support for the Council.
- b. The Secretary of the Interior shall establish an advisory committee under the Federal Advisory Committee Act, 5 U.S.C. App., to provide information and advice for consideration by the Council, and shall, after consultation with other members of the Council, appoint members of the advisory committee representing stakeholders. Among other things, the advisory committee shall recommend plans and actions at local, tribal, State, regional, and ecosystem-based levels to achieve the goals and objectives of the Management Plan in section 5 of this order. The advisory committee shall act in cooperation with stakeholders and existing organizations addressing invasive species. The Department of the Interior shall provide the administrative and financial support for the advisory committee.

## Sec. 4. Duties of the Invasive Species Council. The Invasive Species Council shall provide national leadership regarding invasive species, and shall:

- a. oversee the implementation of this order and see that the Federal agency activities concerning invasive species are coordinated, complementary, cost- efficient, and effective, relying to the extent feasible and appropriate on existing organizations addressing invasive species, such as the Aquatic Nuisance Species Task Force, the Federal Interagency Committee for the

Management of Noxious and Exotic Weeds, and the Committee on Environment and Natural Resources;

- b. encourage planning and action at local, tribal, State, regional, and ecosystem-based levels to achieve the goals and objectives of the Management Plan in section 5 of this order, in cooperation with stakeholders and existing organizations addressing invasive species;
- c. develop recommendations for international cooperation in addressing invasive species;
- d. develop, in consultation with the Council on Environmental Quality, guidance to Federal agencies pursuant to the National Environmental Policy Act on prevention and control of invasive species, including the procurement, use, and maintenance of native species as they affect invasive species;
- e. facilitate development of a coordinated network among Federal agencies to document, evaluate, and monitor impacts from invasive species on the economy, the environment, and human health;
- f. facilitate establishment of a coordinated, up- to-date information-sharing system that utilizes, to the greatest extent practicable, the Internet; this system shall facilitate access to and exchange of information concerning invasive species, including, but not limited to, information on distribution and abundance of invasive species; life histories of such species and invasive characteristics; economic, environmental, and human health impacts; management techniques, and laws and programs for management, research, and public education; and
- g. prepare and issue a national Invasive Species Management Plan as set forth in section 5 of this order.

#### Sec. 5. Invasive Species Management Plan.

- a. Within 18 months after issuance of this order, the Council shall prepare and issue the first edition of a National Invasive Species Management Plan (Management Plan), which shall detail and recommend performance-oriented goals and objectives and specific measures of success for Federal agency efforts concerning invasive species. The Management Plan shall recommend specific objectives and measures for carrying out each of the Federal agency duties established in section 2(a) of this order and shall set forth steps to be taken by the Council to carry out the duties assigned to it under section 4 of this order. The Management Plan shall be developed through a public process and in consultation with Federal agencies and stakeholders.
- b. The first edition of the Management Plan shall include a review of existing and prospective approaches and authorities for preventing the introduction and spread of invasive species, including those for identifying pathways by which invasive species are introduced and for minimizing the risk of introductions via those pathways, and shall identify research needs and recommend measures to minimize the risk that introductions will occur. Such recommended measures shall provide for a science-based process to evaluate risks associated with introduction and spread of invasive species and a coordinated and systematic risk- based process to identify, monitor, and interdict pathways that may be involved in the introduction of invasive species. If recommended measures are not authorized by current law, the Council shall develop and recommend to the President through its Co-Chairs legislative proposals for necessary changes in authority.
- c. The Council shall update the Management Plan biennially and shall concurrently evaluate and report on success in achieving the goals and objectives set forth in the Management Plan. The Management Plan shall identify the personnel, other resources, and additional levels of coordination needed to achieve the Management Plan's identified goals and objectives, and the Council shall provide each edition of the Management Plan and each report on it to the Office of Management and Budget. Within 18 months after measures have been recommended by the Council in any edition of the Management Plan, each Federal agency whose action is required to implement such measures shall either take the action recommended or shall provide the Council with an explanation of why the action is not feasible. The Council shall assess the effectiveness

of this order no less than once each 5 years after the order is issued and shall report to the Office of Management and Budget on whether the order should be revised.

Sec. 6. Judicial Review and Administration.

- a. This order is intended only to improve the internal management of the executive branch and is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any other person.
- b. Executive Order 11987 of May 24, 1977, is hereby revoked.
- c. The requirements of this order do not affect the obligations of Federal agencies under 16 U.S.C. 4713 with respect to ballast water programs.
- d. The requirements of section 2(a)(3) of this order shall not apply to any action of the Department of State or Department of Defense if the Secretary of State or the Secretary of Defense finds that exemption from such requirements is necessary for foreign policy or national security reasons.

(Presidential Sig.)  
THE WHITE HOUSE,  
February 3, 1999.



DEPARTMENT OF THE ARMY  
ASSISTANT CHIEF OF STAFF FOR INSTALLATION MANAGEMENT  
600 ARMY PENTAGON  
WASHINGTON DC 20310-0600



REPLY TO  
ATTENTION OF

DAIM-ED-N (200-3)

26 JUN 2001

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Army Policy Guidance for Management and Control of Invasive Species

1. References:

- a. AR 200-3, 28 Feb 95, Natural Resources – Land, Forest, and Wildlife Management.
  - b. Presidential Executive Order 13112, subject: Invasive Species, 3 Feb 99 (enclosure 2).
  - c. DoD 4500.9-R, Part V, January 2001, Defense Transportation Regulation - DoD Customs and Border Clearance Policies and Procedures.
2. Invasive species can be a threat to natural resources, impact local economies, and present problems for the military mission. The Army Policy Guidance for Management and Control of Invasive Species (enclosure 1) will assist installations to comply with Executive Order 13112 and to manage invasive species within the framework of existing Army natural resources and conservation programs.
3. The Army Staff point of contact for invasive species is Mr. Bob Decker, 703-693-0673.

FOR THE ASSISTANT CHIEF OF STAFF FOR INSTALLATION MANAGEMENT:

2 Encls

  
RICHARD A. HOEFERT  
Colonel, GS  
Director, Environmental Programs

DAIM-ED-N (200-3)

SUBJECT: Army Policy and Guidance on Invasive Species

DISTRIBUTION:

COMMANDER

U.S. ARMY FORCES COMMAND, ATTN: AFPI-ENE, FORT MCPHERSON, GA  
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U.S. ARMY RESERVE COMMAND, ATTN: AFRC-ENV 1401 DESHLER STREET,  
SW, FORT MCPHERSON GA 30330-2000

MILITARY TRAFFIC MANAGEMENT COMMAND, ATTN: MTPAL-FE, 511  
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DEPUTY COMMANDER, U.S. ARMY SPACE AND STRATEGIC DEFENSE  
COMMAND, ATTN: CSSD-EN-V, P.O. BOX 1500, HUNTSVILLE, AL 35807-3801

CHIEF, NATIONAL GUARD BUREAU, ATTN: NGB-ARE, ARMY NATIONAL GUARD  
READINESS CENTER, 111 S. GEORGE MASON DR, ARLINGTON, VA 22204-1382

SUPERINTENDENT, U.S. MILITARY ACADEMY, ATTN: DIR. OF ENGINEERING  
AND HOUSING, EP&S DIVISION, BLDG. 667A, WEST POINT, NY 10996-1592

CF(W/ENCL):

COMMANDER

US ARMY EUROPE AND SEVENTH ARMY, ATTN: AEAEN-PW-ENV, UNIT 29351,  
APO AE 09014-0100

U.S. ARMY CORPS OF ENGINEERS, ATTN: CEMP-RI, 441 G STREET, NW.,  
WASHINGTON, DC 20314-1000

U.S. ARMY ENVIRONMENTAL CENTER, ATTN: SFIM-AEC-EQN, 5179 HOADLEY  
RD., ABERDEEN PROVING GROUND, MD 21010-5401

CONT.

DAIM-ED-N (200-3)

SUBJECT: Army Policy and Guidance on Invasive Species

CF(W/ENCL): (CONT)

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U.S. ARMY WATERWAYS EXPERIMENT STATION, ATTN: PLANS & PROGRAMS,

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U.S. ARMY CONSTRUCTION ENGINEERING RESEARCH LABORATORY,

ATTN: CECER-PPP, P.O. BOX 9005, CHAMPAIGN, IL 61826-9005

U.S. ARMY COLD REGIONS RESEARCH & ENGINEERING LABORATORY,

PLANS & PROGRAMS, 72 LYME ROAD, HANOVER, NH 03755-1290

U.S. ARMY TOPOGRAPHIC ENGINEERING CENTER, ATTN: CETEC-TD-RL, 7701

TELEGRAPHIC ROAD, ALEXANDRIA, VA 22315-3864

U.S. ARMY MATERIEL COMMAND, INSTALLATIONS AND SERVICES ACTIVITY

ATTN: AMXIS-U, ROCK ISLAND, IL 61299-7190

**Army Policy Guidance  
Management and Control of Invasive Species  
June 2001**

**1. Purpose:** To provide policy guidance for the environmental management and control of invasive species on US Army installations.

**2. Applicability:** Applicability of this policy guidance is consistent with AR 200-3 for installations in US states and territories. This policy guidance does not apply to installations in foreign nations. Invasive species are not currently addressed in the Overseas Environmental Baseline Guidance Document. Invasive species management and control at installations in foreign nations will be in accordance with the Final Governing Standards negotiated with the host nation.

**3. References:**

- a. Endangered Species Act (ESA), 16 U.S.C. 1531, Chapter 35.
- b. National Environmental Policy Act (NEPA), 42 U.S.C. 4321.1.
- c. Sikes Act, as amended by the Sikes Act Improvement Act (SAIA) of 1997, 16 U.S.C. § 670a *et seq.*
- d. Presidential Executive Order 13112, subject: Invasive Species, 3 Feb 99.
- e. Presidential Executive Order 13148, subject: Greening the Government through Leadership in Environmental Management, 21 April 2000 (<http://ceq.eh.doe.gov/nepa/regs/eos/eo13148.html>).
- f. DoD 4500.9-R, Part V, January 2001, Defense Transportation Regulation - DoD Customs and Border Clearance Policies and Procedures (<http://public.transcom.mil/J4/j4lt/partVTOC.pdf>).
- g. AR 200-3, 28 Feb 95, Natural Resources - Land, Forest and Wildlife Management.
- h. AR 200-5, 29 Oct 1999, Pest Management.
- i. AR 40-12, Quarantine Requirements, Section 1 and 5, 24 Jan 92.
- j. Policy And Guidance For Identifying U.S. Army Environmental Program Requirements Environmental Program Requirements Report, Aug 00.
- k. Guidance for Presidential Memorandum on Environmentally and Economically Beneficial Landscape Practices on Federal Landscaped Grounds (60 FR 154, 40837-40841), 10 Aug 95.



**Army Policy Guidance**  
**Management and Control of Invasive Species**  
**June 2001**

I. Memorandum, DAIM-ED-N, 21 Mar 97, Subject: Army Goals and Implementing Guidance for Natural Resources Planning Level Surveys (PLS) and the Integrated Natural Resources Management Plan (INRMP).

**4. Background:** Executive Order (EO) 13112 on Invasive Species outlines Federal agency duties and provides definitions that provide the foundation for this policy.

a. Federal Agency Duties: EO 13112, Section 2, Paragraph a.2, establishes duties of federal agencies to prevent the introduction of invasive species, to provide for their control, and to minimize the economic, ecological, and human health impacts that invasive species may cause.

b. Definitions: EO 13112, Section 1 provides the following definitions pertinent to this policy:

(1) Invasive species means an alien species whose introduction does or is likely to cause economic or environmental harm or harm to human health.

(2) Alien species means with respect to a particular ecosystem, any species, including its seeds, eggs, spores, or other biological material capable of propagating that species, that is not native to that ecosystem.

(3) Native species means with respect to a particular ecosystem, a species that, other than as a result of an introduction, historically occurred or currently occurs in that ecosystem.

(4) Introduction means the intentional or unintentional escape, release, dissemination, or placement of a species into an ecosystem as a result of human activity.

(5) Ecosystem means the complex of a community of organisms and its environment.

**5. Responsibilities:**

a. The Assistant Chief of Staff for Installation Management (ACSIM), through the Office of the Director of Environmental Programs (ODEP), is the proponent and Army program manager for all environmental aspects of invasive species management.

b. Deputy Chief of Staff for Operations and Plans will ensure that all aspects of the Integrated Training Area Management Program (ITAM) are consistent with this policy.

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c. Deputy Chief of Staff for Logistics is the Army liaison with the U.S. Transportation Command, who is the DOD Executive Agent for Customs and Border Clearance and proponent for the Defense Transportation Regulation (DTR) (reference 3f). The DTR provides policy in support of the movement of personnel and cargo and the relationship of DOD to the statutory requirements of the border clearance agencies to include actions to prevent the introduction of invasive species.

d. Commanders of Major Commands (MACOMs) and Director of the Army National Guard shall:

(1) provide command and technical supervision of invasives species management at installations under their command or jurisdiction.

(2) assist installations to develop and implement programs to include planning, surveys, monitoring, management (control/eradication), and restoration.

(3) review technical adequacy of the installation invasive species management efforts.

(4) assure that installations request funds, identify requirements, and allocate funds provided by the program proponent.

(5) assure integration of environmental, operations, and logistics missions.

e. Installation Commanders and The Adjutants General shall:

(1) budget, identify requirements in the Environmental Program Requirements (EPR)(reference 3j), and expend allocated funds to effectively plan and execute invasive species management on their installations in accordance with their missions, command priorities, and current environmental must fund guidance.

(2) implement this policy to minimize adverse impacts to the environment and sustain accomplishment of the installation's military mission.

(3) develop internal partnerships that will ensure that all land users and other installation organizations that may influence the introduction and spread of invasive species are aware of and comply with this policy and incorporate it into their procedures.

**6. Policy Guidance:**

a. The Department of Army will comply with Executive Order 13112 (EO) as it applies to U.S. Army activities.

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b. Invasive species shall be managed within the context of the goals and objectives of an installation's Integrated Natural Resources Management Plan (INRMP) (references 3c, 3g, and 3i) and will be integrated into other installation plans as appropriate. Implementation of projects for the control/eradication or response to new introductions of invasive species shall meet the goals and objectives of an approved and current INRMP.

(1) Specific inclusion of invasive species in an INRMP shall not impede progress to complete the INRMP by 18 November 2001 as legally mandated in the SAIA (reference 3c). Invasive species do not need to be addressed specifically or immediately in an installation's INRMP to qualify as an environmental requirement (see paragraph 6b(3) below).

(2) At installations where an INRMP is not required, the Installation Pest Management Plan (reference 3h) or another existing installation plan, as most appropriate, shall address the goals and objectives for invasive species management.

(3) The Management Decision Package (MDEP) for conservation projects involving invasive species management is VENN. Invasive species projects do not need to be specifically identified in the INRMP, or other installation management plans per paragraph 5.b (1) and (2) of this policy, to qualify as an environmental requirement. They only need to be projects that are required to meet the goals and objectives of the plan. If more specific descriptions of installation invasive species programs are desired, they should be addressed during a future review cycle of the INRMP. Requirements for implementing invasive species management shall be identified in the U.S. Army Environmental Program Requirements (reference 3j) under the law/regulation SIKE, ESA, or CWA. Projects to support the management objectives in an approved INRMP or, where an INRMP is not required, to support natural resources stewardship requirements, should be addressed under SIKE. Projects for protecting and managing listed species and critical habitat that involve invasive species should be addressed under the law/regulation ESA. Invasive species projects that involve erosion control and wetlands should be addressed under the law/regulation CWA.

c. Installations, subject to legal authorities and limitations, will monitor invasive species populations, and track the presence and status of invasive species over time to determine when control measures are necessary and to evaluate the effectiveness of prevention, control/eradication, and restoration measures.

d. Installations will give priority to invasive species management actions, including actions to restore native species habitat conditions in ecosystems that have been invaded, that support the installation's primary military mission and contribute to the protection of Federally listed threatened and endangered species and critical

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habitat. Installations should ensure that invasive species do not detract from the usefulness of military training and testing lands and will ensure that invasive species management and control practices do not result in non-permitted take or jeopardize the existence of threatened and endangered species (reference 3a).

e. Where applicable, invasive species management practices shall be synchronized with objectives of the installations ITAM program. The ITAM program integrates training and mission requirements with sound land management practices.

(1) Land Condition Trend Analysis (LCTA) data can provide valuable information for, and shall be shared with, installation natural resources managers.

(2) Land Rehabilitation and Maintenance projects will not include the use of invasive species unless that use is consistent with this policy.

(3) Where appropriate, ITAM Environmental Awareness materials can be used effectively to present invasive species issues.

f. Where available, installations should use Flora and Fauna Planning Level Surveys (PLS) and LCTA to detect and identify invasive species. As existing PLSs are updated they should include invasive species information if it is not currently included.

g. Planned actions to address invasive species should be consistent with management objectives in updated INRMPs and undertaken only after appropriate review under NEPA as implemented by AR 200-2. Actions should also be reviewed under the provisions of the ESA where federally listed species or their habitats are present.

o. Actions that are likely to cause or promote the introduction or spread of invasive species will not be funded.

p. Consistent with references 3e and 3k, invasive species will not be used in installation landscaping. In addition, landscaping practices should incorporate management practices that control invasive species wherever necessary.

j. Installations are encouraged to enter into partnerships with other federal agencies, state agencies, and local agencies, tribes, and non-government organizations:

(1) to share information and address invasive species issues impacting critical missions on installations.

(2) to provide public education on invasive species management.

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(3) to achieve local goals for controlling invasive species both on and off the installation.

k. Installations are encouraged to cooperate with state programs for controlling invasive species and will allow access to the installations for this purpose. Such access must be consistent with installation safety and security considerations. Control measures must be fully coordinated with installation stakeholders and acceptable for use on the installation.

l. ITAM funding will be used for invasive species management only when identified as validated projects in an approved ITAM annual work plan and is consistent with the goals and objectives of the installation's approved INRMP. These projects must have a direct tie to military training and testing activities.

m. Installation and Unit Commanders are required to follow federal laws enforced by the U.S. Department of Agriculture Animal Plant and Health Inspection Service. The Department of Defense accomplishes this through DoD 4500.9-R, Part V (reference 3f). This regulation provides direction for the routine maintenance and washing of vehicles and equipment after field operations to remove mud/particulate matter, which prevents introduction of invasive or exotic species. The regulation requires conformance to customs requirements for international transport. Environmental funds will not be used to comply with DoD 4500.9-R, Part V, January 2001, Defense Transportation Regulation - DoD Customs and Border Clearance Policies and Procedures.

n. Installations shall comply with AR 200-5 when using pesticides to control invasive species.

o. Reduction of pesticides use must be considered in invasives species control strategies. However, pesticide reduction should not be the sole consideration in choosing a method to control invasive species. Informed decisions should be made based on the most effective and environmentally sound approach for controlling invasive species to include the use of pesticides.

p. Alternatives for control of invasive species will be reviewed in accordance with NEPA (reference 3b) as implemented by AR 200-2. If the alternative includes biological control of invasive species, the species used for biological control will not be introduced into any natural ecosystem, unless there is prior consultation with local, state and federal agencies to determine that such introduction will not have an adverse effect on those ecosystems or protected species. The requirements of AR 200-3, paragraph 11-2c(1) shall be followed when species listed or proposed for listing under the ESA are present in the area where biological control is being considered.

## **State and Federal Noxious Weed and Seed Laws**

Visit website <http://www.aphis.usda.gov/ppq/weeds/weedhome.html>

Visit website <http://plants.usda.gov/>